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**FISCAL IMPACT STATEMENT**

**LS 6670**

**BILL NUMBER:** SB 234

**NOTE PREPARED:** Feb 22, 2006

**BILL AMENDED:** Feb 21, 2006

**SUBJECT:** Environmental Rules and Enforcement.

**FIRST AUTHOR:** Sen. Gard

**FIRST SPONSOR:** Rep. Wolkins

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) This bill establishes requirements in environmental rulemaking for disclosure of the availability of technical assistance programs and the identity of and contact information for the Department of Environmental Management's ombudsmen and small business regulatory coordinator. It states certain notice requirements for environmental rulemaking in terms of state restrictions or requirements: (1) that are more stringent than federal restrictions or requirements; or (2) that apply in a subject area where federal law does not impose restrictions or requirements.

The bill provides for the establishment of environmental performance-based programs and authorizes the adoption of rules to implement the programs. The bill provides that a determination of status as a member or participant in a program is not subject to the Administrative Orders and Procedures Act. The bill also establishes a special procedure for the Water Pollution Control Board to adopt rules to establish new water quality standards for certain communities served by combined sewers.

The bill also extends the expiration date of noncode sections that state the required level of protection of certain waters of the state and that direct the Water Pollution Control Board to amend certain water quality rules and to make certain water use category determinations.

The bill also requires the Environmental Quality Service Council (EQSC) to study and make findings and recommendations concerning the positive and negative aspects of enacting legislation that would prohibit environmental rules from being more stringent than corresponding provisions of federal law.

**Effective Date:** (Amended) Upon Passage; July 1, 2006.

**Explanation of State Expenditures:** (Revised) *Environmental Rulemaking*: The provisions in this bill affecting rulemaking by an environmental board will have a minimal impact, if any, on the administrative workload of the Department of Environmental Management (IDEM). Extending the expiration date of noncode sections that state the required level of protection of certain waters of the state and that direct the Water Pollution Control Board to amend certain water quality rules and to make certain water use category determinations will also result in minimal impact to IDEM.

*Performance-Based Programs*: The bill provides that IDEM may develop and implement an environmental performance-based program based on the United States Environmental Protection Agency's National Environmental Performance Track program to encourage pollution prevention by Indiana industries and companies. Also, the bill allows incentives to be used to encourage participation in the program.

The National Environmental Performance Track program requires annual reporting of its members and site visits. As of December 2005, the national program had 344 members, of which the USEPA visits approximately 20% in a year. Also, the national program includes incentives such as: flexible air permitting, extended storage for certain waste generators, and reduced reporting frequency.

Should additional staff be needed to implement the program, the funds and resources could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. As of December 27, 2005, IDEM had nearly 900 employees and approximately 138 full-time, vacant budgeted positions. In FY 2005, IDEM reverted nearly \$2 M to the state General Fund. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

*EQSC*: The bill requires the EQSC to study and make findings and recommendations concerning the positive and negative aspects of enacting legislation that would prohibit environmental rules from being more stringent than corresponding provisions of federal law. This provision will not have a fiscal impact to the extent that the EQSC budget would remain at \$16,500, as set by the Legislative Council. The budget is funded through General Fund appropriations made to the Legislative Services Agency.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** IDEM.

**Local Agencies Affected:**

**Information Sources:** *State of Indiana HRM Detail Staffing Report 12/27/2005*; USEPA National Environmental Performance Track, [www.epa.gov/performancectrack/](http://www.epa.gov/performancectrack/).

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